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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/993,299	11/23/2001	David L. Reynolds	8080	5366

7590 01/21/2004

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Kirtland, OH 44094

EXAMINER

WILLIAMS, CATHERINE SERKE

ART UNIT	PAPER NUMBER
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3763

DATE MAILED: 01/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/993,299

Applicant(s)

REYNOLDS, DAVID L.

Examiner

Catherine S. Williams

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 07 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 11-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-10 and 20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

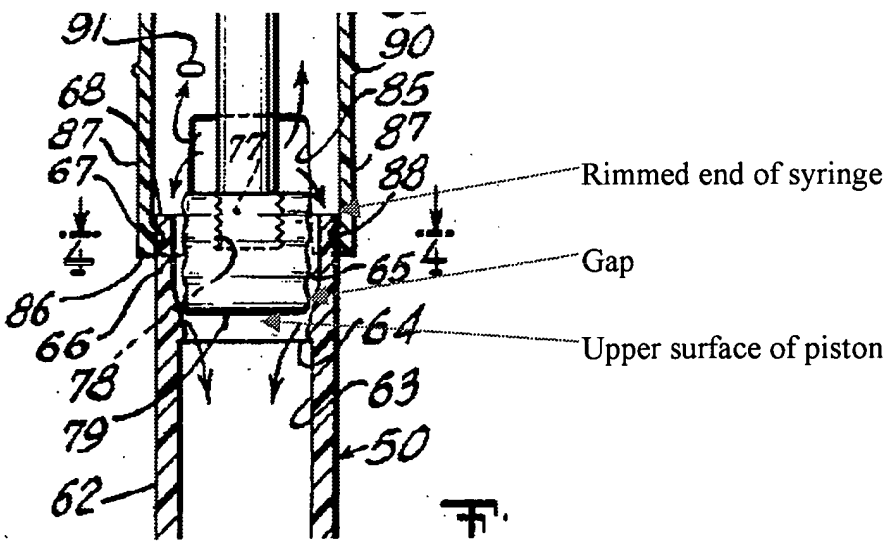
(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3,5,6-7 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Wilburn (US Pat# 2,860,635).

Wilburn discloses a syringe body (50) with a rimmed end (see figure 1). The device also includes a piston (79), a sleeve (82) and piston support means (76). The support means is integrally formed with the sleeve and includes a support surface (77) located radially inwardly of the inner surface of the syringe body side wall and forms a gap (see figures 1, 23 and 25). Looking at figure 1, the base of the sleeve is flat and has a diameter at least as wide as the syringe itself and therefore is sufficient to permit the syringe to stand upright. The sleeve also has an outwardly projecting flange (see figures 23 and 25) that has height. The sleeve also has an inwardly projecting portion detent (88).

Figure 1 (see copy below) shows that the upper surface of the piston is closer to the neck end of the syringe. Additionally, a gap exists between the upper surface and the rimmed end of the syringe body.

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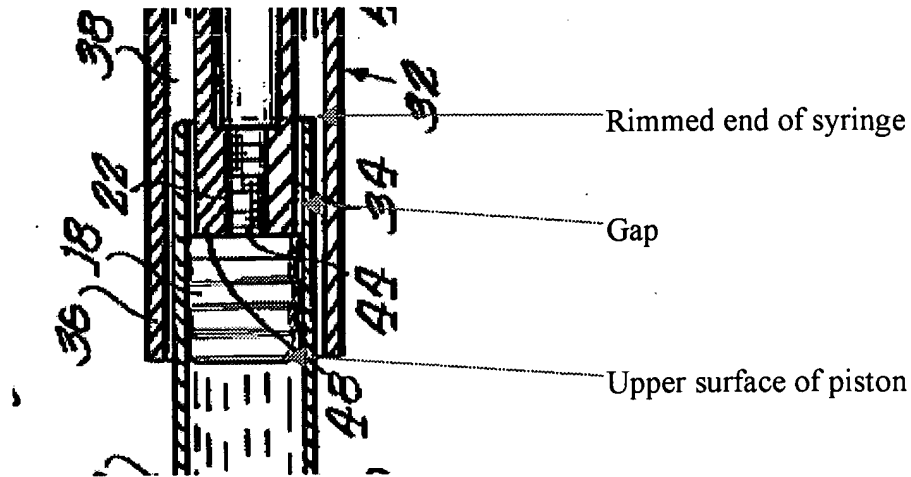


Claims 1-2, 7-10 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Helixon et al (US Pat# 4,091,812).

Helixon discloses a syringe body (12) with a rimmed end (see figure 2). The device also includes a piston (18), a sleeve (32) and piston support means (34). The support means is integrally formed with the sleeve and includes a support surface (48) located radially inwardly of the inner surface of the syringe body side wall and forms a gap (38). Looking at figure 2, the base of the sleeve is flat and has a diameter at least as wide as the syringe itself and therefore is sufficient to permit the syringe to stand upright. The support surface (48) is annular with a central aperture (see figures 2 and 3). The piston is supported above the base end of the sleeve when positioned upright (see figure 2 rotate clockwise). As shown in figure 2 the gap (38) thickness is about the thickness of the syringe body wall which forms an annular recess. The bottom of the sleeve forms a bottom wall (40) of the annular recess. The side of the piston forms a hermetic seal with the inner wall of the syringe body (considered inherent for proper functioning of a syringe for injection).

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Figure 2 (see copy below) shows that the upper surface of the piston is closer to the neck end of the syringe. Additionally, a gap exists between the upper surface and the rimmed end of the syringe body.

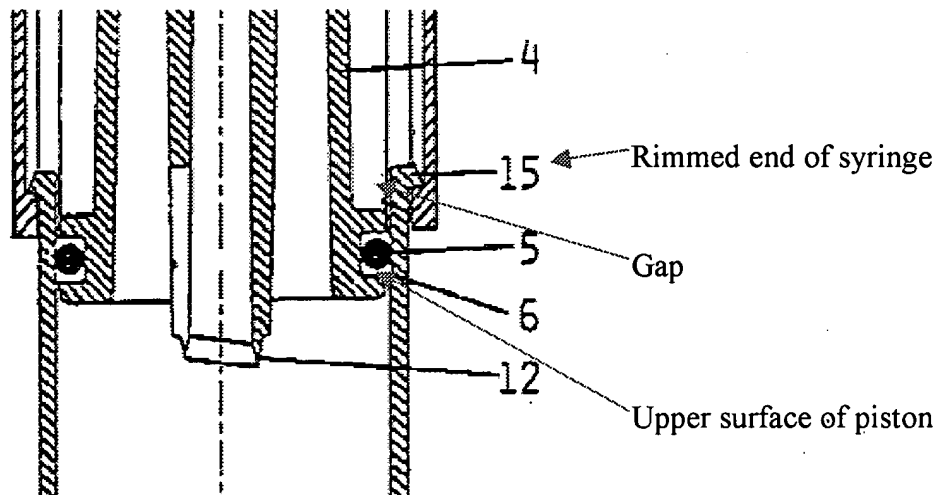


Claims 1, 5-7 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Peterson et al (US Pat# 6,156,014).

Peterson discloses a dispenser that includes a syringe body (1) with a rimmed end (15). The device also includes a piston (8), a sleeve (14) and piston support means (12). The support means is integrally formed with the sleeve and includes a support surface (see figure 1) located radially inwardly of the inner surface of the syringe body side wall and forms a gap (see figure 1). Looking at figure 1, the base of the sleeve is substantially flat and has a diameter at least as wide as the syringe itself and therefore is sufficient to permit the syringe to stand upright. The sleeve also has an outwardly projecting flange (15) that has height which has a vertical dimension when the syringe is positioned upright. The sleeve also has an inwardly projecting portion detent (shown in figure 1).

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Figure 1 (see copy below) shows that the upper surface of the piston is closer to the neck end of the syringe. Additionally, a gap exists between the upper surface and the rimmed end of the syringe body.



#### *Allowable Subject Matter*

Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### *Response to Arguments*

Applicant's arguments filed 11/7/03 have been fully considered but they are not persuasive. Attention is drawn to the copies of the figures for each rejection above. The gap between the upper surface of the piston and the rimmed end of the syringe has been identified in these diagrams.

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*Conclusion*

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Catherine S. Williams whose telephone number is 703-308-4846. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 703-308-3552. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9306 for After Final communications.

Catherine Serke Williams *CSW*  
January 13, 2004

*Brian Casler*  
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